

To: Electoral Area Services Committee

Date: 2018-04-10

From: Louise Hinton, Bylaw Compliance and Enforcement Officer      File No: E01248.100

**Subject: Building Bylaw, and BC Building Code Contraventions at 46594 Chilliwack Lake Road Electoral Area E, Fraser Valley Regional District, British Columbia (legally described as District Lot 496, New Westminster District, Plan NWP22273 Parcel 1, Group 2; and Pa**

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### RECOMMENDATION

**THAT** the Fraser Valley Regional District Board direct staff to file a Notice in the Land Title Office in accordance with Section 57 of the *Community Charter* due to the contraventions of the Fraser Valley Regional District Building Bylaw No. 1188, 2013, at 46594 Chilliwack Lake Road Electoral Area E, Fraser Valley Regional District, British Columbia (legally described as District Lot 496, New Westminster District, Plan NWP22273 Parcel 1, Group 2; and Parcel Identifier 000-547-948)

#### STRATEGIC AREA(S) OF FOCUS

Support Environmental Stewardship  
Support Healthy & Sustainable Community  
Provide Responsive & Effective Public Services

#### PRIORITIES

Priority #3 Flood Protection & Management

### BACKGROUND

**November 15, 2012** – Fraser Valley Regional District Bylaw Staff received a complaint by telephone with regards to construction at this property. The complainant states that the property owner is adding onto a detached garage (approx. 16' x 30') and has included a poured concrete slab, a new roof, and completed siding. The complainant states that the single family dwelling maybe a Marijuana Grow Operation because of a strong odour. The complainant is very concerned about their personal safety and wishes to remain anonymous.

**November 15, 2012** – Fraser Valley Regional District Bylaw Staff left a voicemail message with Federal Government of Canada's Medical Marijuana Access Division asking if there is a legal Medical license issued for the subject property, and if licences are issued for this address.

**November 16, 2012** - Fraser Valley Regional District Bylaw Staff opened a Bylaw Enforcement file regarding the alleged construction without a Building Permit for the (16' x 30') addition to the detached garage.

**November 21, 2012** - Health Canada Staff left a voicemail for Regional District Bylaw Staff that they were returning Regional District's call and that Staff need to place another request for information as Health Canada does not leave information on phone or email. Regional District

Bylaw Staff phoned and left another request on this date.

**November 23, 2012** – Health Canada Staff left a voicemail for Regional District Bylaw Staff that they were returning Regional District's call and that Staff should place another request for information as Health Canada does not leave information on phone or email. Regional District Bylaw Staff phoned and left another request on this date.

**November 28, 2012** - Fraser Valley Regional District Bylaw Staff contacted the Royal Canadian Mounted Police (RCMP) by email to attempt to find out if there was a legal Health Canada Medical Marijuana Growing licence at the subject property.

**November 29, 2012** - Fraser Valley Regional District Bylaw Staff received another phone call from the same complainant asking if staff had been to the property yet. It was explained that the Regional District hasn't attended the subject property because of the health and safety concerns expressed with the unverified Marijuana Grow Operation that maybe on this property. The complainant stated that the property owners are continuing construction of the garage in the backyard and gate is usually left open during the day. The complainant also expressed concerned that they are going to use the garage as a residence as it looks like they are doing plumbing work in it.

**November 30, 2012** - Fraser Valley Regional District Bylaw Staff contacted the RCMP by email to see if they were are aware of a legal Health Canada Medical Marijuana Growing Licence at the subject property. The RCMP responded that there is no Health Canada Medical Growing License associated with this property.

**December 3, 2012** - Regional District Building Inspection and Bylaw Staff attended the property at 46594 Chilliwack Lake Road for a site inspection. Bylaw and Building Staff accessed the property and noted that there had been construction to the accessory detached garage, so they took inspection photographs and posted Stop Work and No Occupancy Notices. Bylaw Enforcement staff left their business card for the Property owners to respond.

Site Inspection Photographs dated **December 3, 2012** that illustrate construction without a permit:



**December 4, 2012** - Regional District Bylaw Staff contacted RCMP Staff and advised them of the

health and safety concerns that were noticed during the recent site inspection of the subject property; and requested police assistance for any future inspections.

**December 4, 2012** - Regional District Bylaw Staff received a phone call from the Property Owner Mr. Steve Claydon. Mr. Claydon stated that he was only repairing the detached garage. FVRD Bylaw Staff responded by explaining that a Building Permit was required for the construction work. Mr. Claydon agreed to apply for a Building Permit and Mr. Claydon provided contact information, so that documents could be emailed to him. Regional District Bylaw Staff explained to Mr. Claydon the details of the Building Permit process.

**December 4, 2012** - Regional District Bylaw Staff sent a letter to the property owner by email and regular mail along with all relevant Building Permit information, including an old site plan of their property and a Building Permit application form; giving them a deadline of January 5, 2013 to make application for the construction on the detached garage.

**January 3, 2013** - Regional District Bylaw Staff received a phone call from the complainant who advised Staff of the following developments on the subject property:

- Equipment is being placed inside the renovated detached garage.
- The owners have re-roofed the front porch (of the accessory building) since the Regional District attended and posted the Stop Work and No Occupancy Notices.
- The notices posted by the Regional District had been removed.
- The air conditioner or heat pump equipment goes on and off all day and night although no one is home.
- They believe that the accessory building is or will soon be a Marijuana Grow Operation, not a residence.

**January 7, 2013** – Regional District Bylaw Staff sent a second letter to the property owners Mr. Steven Claydon and Mrs. Allison Claydon by email and regular mail giving them a new deadline of January 22, 2013 to make application. Bylaw Staff also made contact with British Columbia Safety Authority advising them of the unauthorized construction. The Electrical Safety Officer advised FVRD staff that there are no electrical or gas permits for the subject property.

**January 9, 2013** - Regional District Bylaw Staff spoke the RCMP regarding the recent developments in the file. RCMP provided Regional District Bylaw Enforcement Staff with RCMP file number 2013-728 for the subject property.

**January 10, 2013** - Regional District Bylaw Staff received notification from RCMP by email that a Health Canada Medicinal Marijuana Growing Licence was issued December 24, 2013; therefore, the RCMP will be closing their file.

**January 15, 2013** – Property owners, Mr. Steven Claydon and Mrs. Allison Claydon came into the Regional District Building Office and applied for a Building Permit (BP012902) for the lean-to on the existing detached garage.

**February 14, 2013** - Regional District Bylaw Staff received a phone call from a complainant alleging that the following new construction was taking place on the subject property:

- The cabin at the rear of the property is being worked on.
- The owners have placed two new power poles next to the detached garage.
- The owners will be replacing the existing decking around the single family dwelling.

Regional District Bylaw Staff noted that a follow-up site inspection was scheduled with the property owners and then was subsequently cancelled by Mr. Claydon who stated that he would call for an inspection the following week. To date there has been no follow-up site inspection completed.

Regional District Bylaw Staff attempted to contact the property owners Mr. Steven Claydon and Mrs. Allison Claydon by telephone, there was no answer so FVRD Bylaw Staff left a detailed voice mail for the property owners to call the Regional District back. FVRD Bylaw Staff sent notification to the property owners Mr. Steven Claydon and Mrs. Allison Claydon by email advising them of the requirement of a site inspection.

**March 8, 2013** - Regional District Bylaw Staff received pictures of the subject property at 46594 Chilliwack Lake Road from a complainant.

**March 14, 2013** -- Regional District Building Inspection Staff attended the subject property at 46594 Chilliwack Lake Road for a follow-up site inspection. FVRD Staff accessed the property and noted that there has been continued construction on the accessory detached shop, a new power pole had been placed and there had been new construction on the cabin at the rear of the property. Site inspection photos were taken.

Site Inspection Photographs taken **March 14, 2013** that illustrate construction without a permit, disobey Stop Work and No Occupancy Notices, and tampering (removal) of a posted notice:

Detached Garage and Cabin at Rear of the property:



Single Family Dwelling:



**April 30, 2013** – A letter is sent by regular mail to the property owners Mr. Steven Claydon and Mrs. Allison Claydon listing the required outstanding items to complete their Building Permit (BP012902) for the lean-to on the existing detached garage.

**July 29, 2013** – A complainant came into the front counter of the Regional District Office and explained to FVRD Bylaw Staff that a Marijuana Grow Operation was now operating in the existing renovated detached garage.

**August 16, 2013** – Property Owners Mr. Steven Claydon and Mrs. Allison Claydon came into the Regional District Building Office and applied for two additional and separate Building Permits; (BP013005) for renovations to the single family dwelling and (BP013006) for the renovations to the cabin at the rear of the property.

**September 5, 2013** – Two separate letters are sent by regular mail to the property owners Mr. Steven Claydon and Mrs. Allison Claydon listing the required outstanding items to complete their two Building Permits (BP013005) for the renovations to their single family dwelling and (BP013006) for the renovation of the cabin at the rear of their property.

**February 14, 2014** – A second set of separate letters are sent by regular mail to the property owners Mr. Steven Claydon and Mrs. Allison Claydon listing the required outstanding items to complete their two Building Permits (BP013005) for the renovations to their single family dwelling and (BP013006) for the renovation of the cabin at the rear of their property.

**March 3, 2014** - A third letter is sent by regular mail to the property owners Mr. Steven Claydon and Mrs. Allison Claydon listing the required outstanding items to complete their first Building Permit (BP012902) for the lean-to on the existing detached garage.



**June 6, 2014** - A fourth set of three separate letters are sent by regular mail to the property owners Mr. Steven Claydon and Mrs. Allison Claydon listing the required outstanding items to complete all three of their outstanding Building Permit applications 1. ( BP012902) for the lean-to on the existing detached garage; 2. (BP013005) for the renovations to their single family dwelling; and 3. (BP013006) for the renovation of the cabin at the rear of their property.

**July 8, 2014** – A fifth and final set of three separate letters are sent by regular mail to the property owners Mr. Steven Claydon and Mrs. Allison Claydon listing the required outstanding items to complete all three of their outstanding Building Permit applications 1. ( BP012902) for the Lean-to on the existing detached garage; 2. (BP013005) for the renovations to their single family dwelling; and 3. (BP013006) for the renovation of the cabin in the rear of their property.

**August 20, 2014** – A sixth set of three separate letters was sent by regular mail to the property owners Mr. Steven Claydon and Mrs. Allison Claydon to notify them that all three of their Building Permit Applications (BP012902), (BP013005), (BP013006) have now been closed due to inactivity. The letters each also advise the property owners that their files have now been referred back to the Bylaw Enforcement Department for follow-up.

**October 24, 2014** – Regional District Bylaw Staff sent a letter requesting access to the property for a site inspection to the property owner Mr. Steven Claydon and Mrs. Allison Claydon by regular mail with a deadline for a response of November 24, 2014.

**November 27, 2014** – Regional District Bylaw Staff sent a second letter requesting access to the subject property for a site inspection to the property owner Mr. Steven Claydon and Mrs. Allison Claydon by regular mail with a deadline for a response of December 11, 2014.

**September 16, 2015** – Regional District Bylaw Enforcement Staff have made multiple attempts to contact property owners Mr. Steven Claydon and Mrs. Allison Claydon by telephone and by email without any response.

**January 20, 2016** – Regional District Bylaw Staff obtained a new title search that confirms that the property ownership has not changed and the subject property ownership continues to remain as Mr. Steven Claydon and Mrs. Allison Claydon, as joint tenants.

**February 4, 2016** - Regional District Bylaw Enforcement Staff attempted to contact both property owners Mr. Steven Claydon and Mrs. Allison Claydon by telephone and by email. The current phone numbers, and email used to contact the property owners were discovered to be no longer in service.

**May 10, 2016** - Regional District Bylaw Staff sent a letter to the property owners Mr. Steven Claydon and Mrs. Allison Claydon by regular mail with three Bylaw Offence Notice Tickets (No. 22894, 22895, 22897) attached each for building without a permit. This letter gives the property owners a deadline of June 10, 2016 to make re-application for their outstanding Building Permits.

**February 16, 2018** - Regional District Bylaw Staff sent a letter to both the property owners by

email and regular mail advising them of staff's recommendation to proceed with the process of registering a Section 57 *Community Charter* notice on the title of their property. This letter gave the owners a final opportunity to achieve voluntary compliance by the deadline of March 9, 2018. Staff has not received a response or any Building Permit Applications from the property owners Mr. Steven Claydon and Mrs. Allison Claydon to date.

**February 22, 2018** - Regional District Bylaw Staff received the most recent letter dated February 16, 2018 received back returned to sender from Canada Post.

## DISCUSSION

Section 57 of the *Community Charter* allows a Building Inspector to recommend a resolution to place a Notice on the Title of a property if a contravention of a bylaw or another enactment that related to the construction or safety of a building is observed. A Notice on Title serves as notice to anyone searching the title that the property may be in breach of local government bylaws or other enactments; provide disclosure to future owners; and protects against potential claims with regard to the contraventions.

Staff requests that the Electoral Services Committee consider the following information:

### Building Bylaw

Staff is authorized to regulate minimum construction standards within electoral areas via the *Fraser Valley Regional District Building Bylaw No. 1188, 2013* (Building Bylaw) for health, safety and the protection of persons and property. The bylaw provides that no person shall commence any construction, alternation, reconstruction, demolition, removal, relocation or change the occupancy of any building.

The new lean-to on the existing detached garage, and the renovation works to the Single Family Dwelling, and the cabin at the rear of the property were all constructed without Building Permits.

**Multiple Building Permits are required for the works undertaken by the property owner; or a demolition Building Permit is required to remove all construction completed without Building Permits.**

### Zoning Bylaw

This property is in Electoral Area E, and is zoned *Rural 2 (R-2)* under the *Zoning Bylaw No. 66, 1979 of the Regional District of Fraser-Cheam* (Bylaw 66). The primary purpose of this zone is to maintain the existing rural character of the Plan area and to support rural lifestyles, and to provide for densities that are compatible with existing development and levels of servicing. The rural designation exists on rural lots that have good road access, but that may have potential geotechnical hazard, servicing limitations, or other constraints.

The existing detached garage and the Single Family Dwelling had alterations to operate Marihuana Grow Operations. A Marihuana Grow Operation Use is not listed as a permitted use in the R-2 zone.

**A successful re-zoning of the property would be required to authorize the unpermitted use of a Marijuana Grow Operation.**

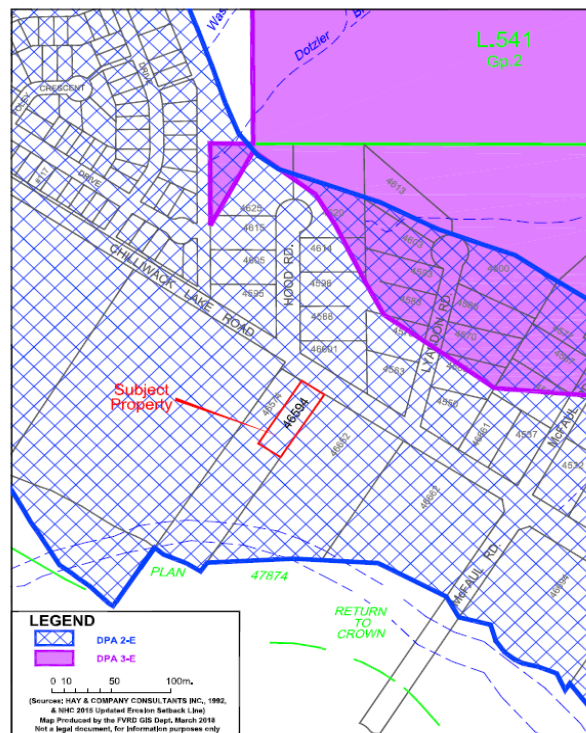
### Official Community Plan

1. The subject property is within the *Chilliwack River Development Permit Area 2-E* (DPA 2-E) under the *Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011* (Bylaw 1115). This Development Permit area is designated for the protection of the natural environment and protection of development from hazardous conditions. A Development Permit must be obtained prior to alteration of land or construction of, addition to, or alteration of a building or structure.
2. The subject property is within the *Riparian Areas Development Permit Area 5-E* (DPA 5-E) under the *Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011* (Bylaw 1115). This Development Permit area is designated for the protection of the natural environment, its ecosystems and biological diversity. A Development Permit must be obtained prior to alteration of land or construction of, addition to, or alteration of a building or structure.
3. The subject property is within the one hundred year erosion set back line under the *Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011* (Bylaw 1115). The Erosion set back line provides that there is likelihood for an erosion event to occur at least one time within a 100 year time frame.

A Development Permit must be obtained prior to the alteration of land the disturbance of soil or vegetation; or construction of or addition to a building or structure within a riparian assessment area. To date there has been no completed application for a Development Permit for any of the construction or land alteration works that have occurred on the subject property.

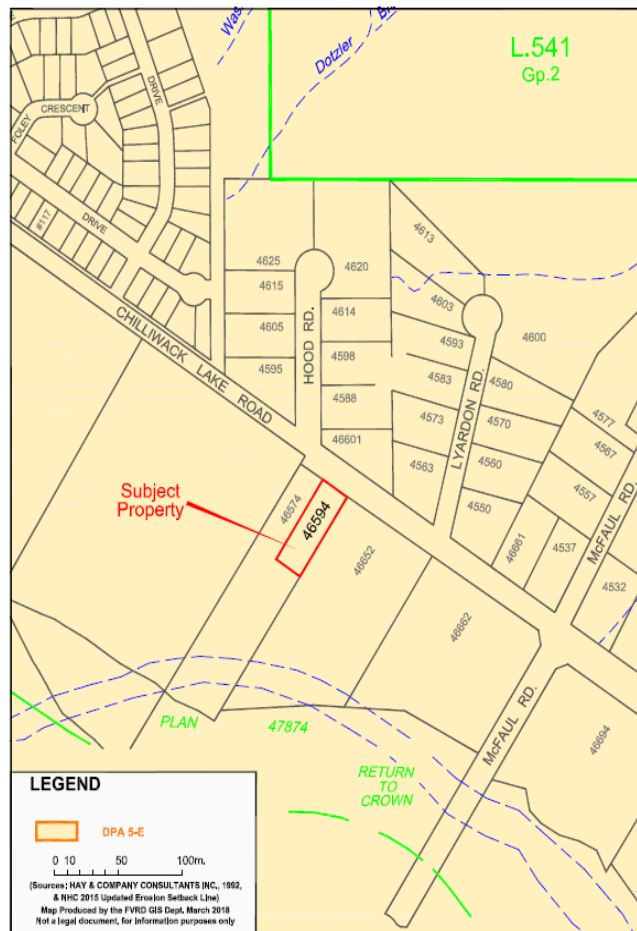
**A completed Development Permit is required for the construction that has taken place on the property.**

### (DPA 2-E) DEVELOPMENT PERMIT AREA MAP

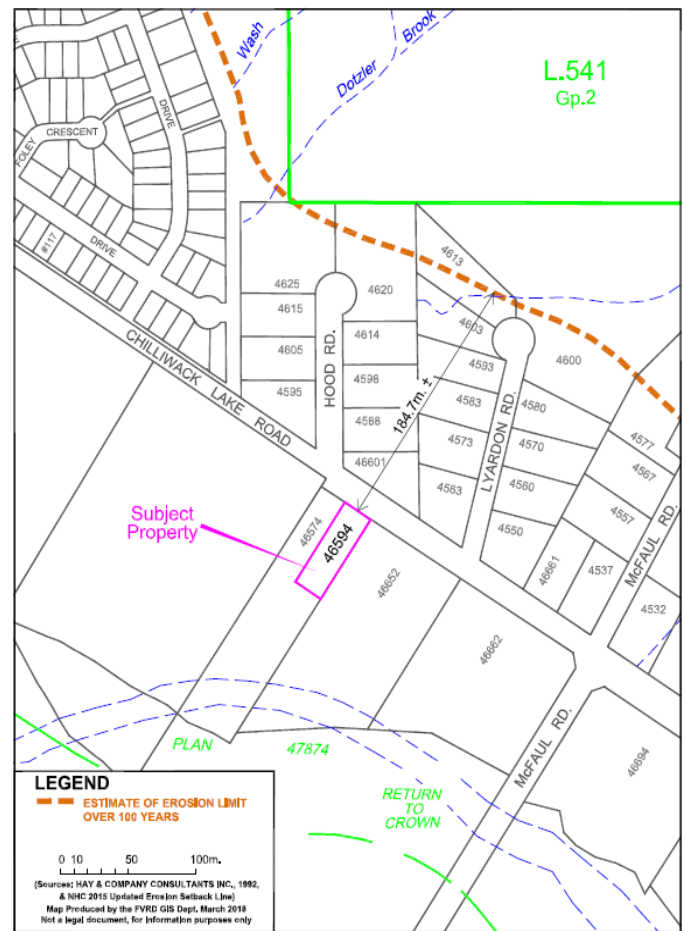




## (DPA 5-E) DEVELOPMENT PERMIT AREA MAP



## 100 YEAR EROSION DEVELOPMENT SET BACK LINE



## **COST**

Land Titles Office filing fee of approximately \$55.

The owner will be required to pay a removal fee of \$500 in accordance with the *Fraser Valley Regional Building Bylaw 1188, 2013*, after the unpermitted construction works on detached garage, the single family dwelling and the cabin at the rear of the property buildings are either:

1. Demolished with Building Permits issued by the FVRD with a successful final inspections; or
2. Three fully completed Building Permits for the new lean-to on the existing detached garage, and the renovation works to the Single Family Dwelling, and the cabin at the rear of the property are issued by the FVRD and all receive successful final inspections. The applications require the application and issuance of a Development Permit for the

alteration of land and construction, and rezoning of the property to permit a Marijuana Grow Operation Use.

## **CONCLUSION**

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the construction of the new lean-to on the existing detached garage, and the renovation works to the Single Family Dwelling, and the cabin at the rear of the property that were done without Building Permits and the construction without a Development Permit violate multiple Regional District Bylaws, and the *British Columbia Building Code*. Staff further notes that full compliance will only be achieved with the successful completion of three fully completed Building Permits for the construction works of the new lean-to on the existing detached garage, and the renovation works to the Single Family Dwelling, and the cabin and the issuance of a Development Permit.

Regrettably, but in the interest of full public disclosure and as incentive to achieving voluntary compliance, I, as an Appointed Building Inspector, believe that the filing of Notice is appropriate in this instance and submit the above recommendation in accordance with Section 57 of the *Community Charter*.

Electoral Area Services Committee (EASC) approval and Regional District Board resolution is required to assess Section 57 notices.

The process of filing a Section 57 notice on property title is conducted in accordance with the *Community Charter* and the *Local Government Act*.

Regional District requirements for Building Permit works are being administered in accordance with related *Fraser Valley Regional District Bylaws*, Policies, and the *BC Building Code*.

## **COMMENTS BY:**

<b>Margaret Thornton, Director of Planning &amp; Development:</b>	Reviewed and supported.
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<b>Mike Veenbaas, Director of Financial Services</b>	No further financial comment.
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<b>Paul Gipps, Chief Administrative Officer</b>	Reviewed and supported
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